

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MICHAEL KULAKOWSKI,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO.
)	3:16-CV-02510
)	
WESTROCK SERVICES, INC.,)	
)	
Defendant.)	

DEPOSITION OF
LARRY LLOYD EDEN
Taken on Behalf of the Defendant
November 9, 2017
Commencing at 1:05 p.m.

Reported by: Jerri L. Porter, RPR, CRR
Tennessee LCR No. 335
Expires: 6/30/2018

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1 physically abuse anybody.

2 Q Had an employee come to you and told you
3 that he had touched them or hit them or kicked them?

4 A Yes.

5 Q Tell me about that.

6 A Well, it was Kulakowski. He said that he
7 had kicked him, knocked his hat off.

8 Q Anything else?

9 A No.

10 Q Tell me about the kicking. What did he talk
11 about the kicking?

12 A He just told me that, you know, Tommy had
13 kicked him. But like I said, they joked and cut up
14 all the time, so I didn't think it was a --

15 Q How did you know they joked and cut up all
16 the time?

17 A Because they laughed at one another.

18 Q Okay. When Michael Kulakowski told you that
19 Tommy Whited had kicked him, did he say where he had
20 been kicked?

21 A In the groin.

22 Q Do you recall when this was?

23 A Maybe -- I don't. I'm going to say a year
24 and a half ago or something, two years.

25 Q Did he tell you that on more than one

1 occasion?

2 A Not that I can recall, no.

3 Q You just don't know if he told you that on
4 more than one occasion or you're certain that he
5 didn't tell you on more than one occasion?

6 A No. I just don't know.

7 Q Okay. When he told you that, did you
8 document it in any way?

9 A No, ma'am.

10 Q Did you go talk to Tommy Whited about it?

11 A No, ma'am.

12 Q What did you say to Michael Kulakowski when
13 he told you that?

14 A I didn't -- I didn't say anything.

15 Q Did you say anything to the effect of that's
16 just how it's going to be when you work here, he's
17 going to do that to you?

18 A No.

19 Q Anything like that?

20 A No, ma'am.

21 Q So if Michael Kulakowski recalls you telling
22 him that, would you have a basis to dispute his
23 recollection that you had told him that?

24 A Can you repeat that? I didn't quite
25 understand what you just said.

1 Q Sure. If Michael Kulakowski recalls you
2 telling him that, that you had told him that that's
3 how it was going to be if he worked out there, that
4 Tommy Whited was going to do those things to him,
5 would you have a basis to dispute Michael
6 Kulakowski's recollection?

7 A Not other than my word against his.

8 Q Now, when he told you that he had been
9 kicked in the groin by the general manager of the
10 plant, Tommy Whited, did you report it to HR?

11 A No, ma'am.

12 Q Why not?

13 A Because, like I said, they joked and cut up
14 all the time.

15 Q Did Michael Kulakowski tell you that it was
16 a joke when Tommy Whited had kicked him in the
17 groin?

18 A No, he didn't say it was a joke.

19 Q And you didn't personally witness it to see
20 that it was a joke, did you?

21 A No.

22 Q Did he say that it -- did Michael Kulakowski
23 tell you that it hurt?

24 A Yes, I'm sure he did.

25 Q And I guess that would be typical as a man,

1 if you get kicked in the groin, it's going to hurt,
2 right?

3 A Yes.

4 Q Would you consider it to be a joke if you
5 got kicked in the groin?

6 A No.

7 Q Are you familiar with WestRock's policies?

8 A I'm familiar with it some, yes.

9 Q Did you know that under WestRock's policies
10 that you should have reported if another employee
11 reported an assault in the workplace?

12 A If he was serious about it, yes.

13 Q You just didn't think that Michael
14 Kulakowski was serious when he told you he got
15 kicked in the groin and hurt, did you?

16 A No.

17 Q Why not?

18 A Because like I said, they joked and cut up
19 all the time. And I've seen them, you know, laugh
20 and joke together, and so I just didn't take it
21 serious.

22 Q Do you wish you would have taken it
23 seriously?

24 MS. DOHNER SMITH: Objection.

25 THE WITNESS: Yes, now.

1 BY MS. COLLINS:

2 Q Do you think you were complying with
3 WestRock policy when you didn't report that to HR?

4 A Like I said, I thought I was -- you know, I
5 didn't -- if I thought Kuli was in any kind of
6 danger, I would have reported it. But I just
7 thought it was just a -- they was kidding around all
8 the time, playing with one another all the time.

9 Q What do you base that on?

10 A Based it on what I -- you know, I had seen
11 Tommy, you know, slap his hat off and Kuli would
12 laugh, you know, that kind of stuff.

13 Q Other than slapping his hat off and kicking
14 him in the groin, did you see anything else?

15 A No, ma'am.

16 Q Did Michael Kulakowski tell you that Tommy
17 Whited had pulled out his penis?

18 A No, ma'am.

19 Q Did Michael Kulakowski report anything to
20 you about Tommy Whited grabbing him in the groin?

21 A I don't recall that, no, ma'am.

22 Q Did Michael Kulakowski complain to you about
23 Tommy Whited hitting him?

24 A Hitting him?

25 Q Yes.

1 A He told me about it.

2 Q What did he tell you?

3 A Just told me that, you know, Tommy had
4 slapped his hat off, and of course I had seen it.

5 Q Well, what else did he tell you about him
6 slapping his hat off?

7 A Nothing.

8 Q If he was telling you about it, did -- was
9 he complaining about it? Did he seem like he wanted
10 to have his hat slapped off?

11 MS. DOHNER SMITH: Objection.

12 THE WITNESS: I don't know. But again,
13 I didn't think he was complaining about it. I
14 thought he was just, you know, telling me about it.

15 BY MS. COLLINS:

16 Q What kind of hat was it?

17 A I'm sure it was a Tennessee hat. He wears
18 Tennessee most of the time.

19 Q Would you want to have your hat slapped off
20 of you in the workplace?

21 A No.

22 Q If the general manager were treating you
23 like that, what would you do?

24 A I would call the hotline.

25 Q Did you ever call the hotline on Tommy

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1 Whited?

2 A No, ma'am.

3 Q Did you ever contact anyone in human
4 resources about Tommy Whited or his behavior?

5 A No.

6 Q Why not?

7 A Obviously, a lot of his behaviors I didn't
8 know.

9 Q Were you -- when you were plant manager at
10 the fulfillment center, were you considered like
11 second in command?

12 A Yes.

13 Q Being second in command, could employees
14 report problems to you?

15 A Yes.

16 Q And did you have a responsibility to address
17 those problems?

18 A Yes.

19 Q Who was the HR person that was over the
20 fulfillment center or the Gallatin plant?

21 A Her name is Terri Henley, but she's not on
22 site.

23 Q How long has she been the HR person for
24 those two facilities?

25 A Maybe three or four years.

1 Q Who was it before that?

2 A I don't know.

3 Q Has -- what about Helen?

4 A She is our administrative assistant.

5 Q Did she handle HR functions?

6 A She -- if somebody needed something from HR,
7 she would get them numbers and that kind of stuff
8 for them to call.

9 Q Are you still in touch with her?

10 A No, ma'am.

11 Q How often would you see Terri Henley out at
12 the plant? And I'm talking about just the 2015 or
13 2016 time frame.

14 A Maybe once or twice a year.

15 Q Would you see any other HR people out at the
16 plant?

17 A No, ma'am.

18 Q Was there a separate management handbook
19 that y'all had that told you how to deal with
20 complaints of harassment?

21 A There was just the handbook.

22 Q Okay. Now, when Michael Kulakowski told you
23 that he had been kicked in the groin and had his hat
24 slapped off his head, did you report that to
25 divisional HR?

- 1 A Right.
- 2 Q Had any female employees complained to you
- 3 about Tommy Whited hitting them in the groin or
- 4 private parts?
- 5 A No, ma'am.
- 6 Q Would Tommy Whited get angry and call you to
- 7 come over to the plant, the fulfillment center?
- 8 A Yes.
- 9 Q Tell me about that.
- 10 A Well -- why did he want me to come over?
- 11 Q Yes.
- 12 A Because the warehouse was in a mess or
- 13 something of that nature.
- 14 Q Would he scream and yell at people?
- 15 A Never seem him scream and yell, no.
- 16 Q Would he cuss?
- 17 A Talk loud, yes.
- 18 Q Okay. So he would talk loudly. Would he
- 19 cuss at people?
- 20 A Cuss people, no.
- 21 Q At any point in time, did you tell -- did
- 22 you see Michael Kulakowski tell Mr. Whited to stop
- 23 messing with him?
- 24 A No.
- 25 Q Did Michael Kulakowski ever tell you that

1 Tommy Whited had asked him to suck his penis?

2 A No.

3 Q Or his dick?

4 A No, absolutely.

5 Q Had Michael Kulakowski told you that he had
6 been slapped in the groin area numerous times by
7 Mr. Whited?

8 A As what, ma'am?

9 Q Been slapped in the balls, the groin area,
10 by Mr. Whited.

11 A Yes.

12 Q Okay. Tell me about that.

13 A Well, he just said, you know, he'd come by
14 and walk up beside of him, look at his shoulders or
15 something or other, and take his hand and do that
16 (indicating).

17 Q So Michael Kulakowski told you that
18 Mr. Whited would come up and hit him in his groin?

19 A Yeah.

20 Q When he told you that, did you report that
21 to divisional HR?

22 A No.

23 Q Did you report it to anyone in human
24 resources?

25 A No.

1 Q Did Michael Kulakowski ever tell you
2 anything about being hit so hard he got bruised?

3 A No.

4 Q Did Michael Kulakowski ever tell you
5 anything about Tommy Whited running him down with
6 his truck?

7 A No.

8 Q Now, other than -- when Michael Kulakowski
9 told you about the time that he was slapped in the
10 groin by Tommy Whited and when he was kicked in the
11 groin by Tommy Whited, you didn't report any of
12 those to divisional HR, right?

13 A No.

14 Q Okay.

15 A Like I said, they was always kidding around
16 with one another.

17 Q And that's your impression, right?

18 A Yes, ma'am.

19 Q But you didn't actually witness it, right?

20 A No. I witnessed, yes, one time that they
21 did, and they were both laughing.

22 Q When was that?

23 A I would say it was within the last couple of
24 years.

25 Q What did you witness?

1 A Well, him doing just like I was talking
2 about, walking up to him and doing this
3 (indicating).

4 Q Tommy Whited hitting Mr. Kulakowski --

5 A Yes.

6 Q -- in his groin?

7 Did Mr. Kulakowski tell you that he was
8 scared to lose his job?

9 A No.

10 Q So, the time that you saw Mr. Whited
11 actually hit Mr. Kulakowski in the groin, you just
12 didn't do anything about that?

13 A No. Because, again, I thought they was just
14 fooling around. That's what they had been doing.

15 Q Did you ask Mr. Kulakowski separately if
16 that was okay with him to be hit --

17 A No, I didn't.

18 Q -- in the groin by the general manager?

19 A No, ma'am.

20 Q I think you said you wouldn't think that was
21 okay to have the general manager walk by and hit you
22 in the groin, right?

23 A No.

24 Q And Tommy Whited never kicked you or touched
25 you in the groin area?

1 A Huh-uh. No, ma'am.

2 Q Did he say that supervisors reported to him,
3 Tommy Whited?

4 A Yeah. Everybody reported to Tommy.

5 Q Even you?

6 A Yes.

7 Q Did y'all give training to the employees on
8 the Global Compliance hotline?

9 A I don't recall training. I know that
10 everybody was told where the numbers were posted and
11 all that.

12 Q Where were the numbers posted?

13 A On a -- like it's a bulletin board.

14 Q At the fulfillment center?

15 A Yes. Both.

16 Q Have they always been there?

17 A Yes, ma'am.

18 Q Other than posting it on the bulletin board,
19 was there any sort of regular training about sexual
20 harassment or how to report sexual harassment?

21 A For?

22 Q For the employees, not management.

23 A I think during some of our safety meetings
24 we tried to cover some of that, yes.

25 Q Okay. Is that documented anywhere that you

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1 A No.

2 Q Who would have been responsible for that?

3 A That should be an HR function, I would
4 think.

5 Q But do you know who would have done that?

6 A No.

7 Q Do you have any knowledge about that?

8 A About who would hand them out?

9 Q Yes.

10 A No, ma'am.

11 Q When you got an updated employee handbook,
12 did you just sign an acknowledgment form saying you
13 received it? Or how did that go down?

14 A Yes.

15 Q But would you have to go through it at the
16 time and look at it and then sign the form or would
17 you just sign the form and go on your way?

18 A You would have time to go through it and
19 then sign it and take the signed copy back.

20 Q Was that the same with the floor employees?

21 A The what?

22 Q The employees on the manufacturing floor,
23 not management employees.

24 A Yes.

25 Q Did you -- as management, did management

1 constitute fighting, horseplay, practical jokes or
2 pranks while at the work site?

3 A Yes.

4 Q Now if you could turn to Page 11. And down
5 at the bottom of the page, it's got -- it has a
6 header that says, "Employees who believe they have
7 been harassed must take the following immediate
8 action." And the third one says, "If an employee
9 makes a complaint regarding harassment to a
10 supervisor or manager, then the supervisor or
11 manager is required to notify his or her divisional
12 HR Director, along with his or her local human
13 resources representative or senior management, if
14 applicable."

15 Now, did you do that with respect to
16 anything that Michael Kulakowski told you about
17 Tommy Whited hitting him and slapping him and
18 kicking him?

19 A No. Because I didn't think what he was
20 telling me was a complaint.

21 Q Okay. If you could turn to the next page on
22 Page 12. And down at the bottom half of the page in
23 the Anti-violence section, in the third paragraph it
24 states, "If an employee is threatened, witnesses or
25 overhears a threat of bodily harm, he/she must

1 about Mr. Whited hitting Mr. Kulakowski in the
2 groin, you had made a gesture with your hand. The
3 court reporter can't get down on the record what
4 your gesture looked like. Could you explain in
5 verbal words what the hand gesture you were making
6 was?

7 A He stood beside him, and then put his hands
8 down to his side, and just flipped his hand back.

9 Q So, it wasn't like he was -- had a fist and
10 was punching him with force in the groin?

11 A No. It was just a flip back.

12 Q More like a tap or little slap?

13 A Yes.

14 Q Okay. Nothing with a lot of force?

15 A Correct.

16 Q I think you testified that you saw that
17 happen one time in the last couple of years. Was
18 Mr. Kulakowski laughing at the time?

19 A Yeah. They both were.

20 Q Okay. So there wasn't anything out of that
21 situation that made you think that Mr. Kulakowski
22 was hurt or in distress in any way?

23 A No.

24 Q Okay. When it comes to working overtime at
25 the company, you only have employees work overtime

1 MS. COLLINS: Objection to form.

2 THE WITNESS: Well, it was at the time
3 he had gotten on to him about something. That's
4 usually when I hear complaints, after he gets on to
5 him.

6 BY MS. DOHNER SMITH:

7 Q What do you mean, gets on to him?

8 A Gets on to him because the warehouse is in a
9 mess.

10 Q So like demanding that they do a better job
11 or --

12 A Yes. He wants them, yes, to keep the
13 warehouse clean and neat.

14 Q Okay. Did Mr. Kulakowski ever tell you that
15 he believed he was being harassed, sexually harassed
16 by Mr. Whited?

17 A No.

18 Q Did Mr. Kulakowski ever tell you that he
19 wanted you to make a report on his behalf?

20 A No.

21 MS. DOHNER SMITH: I think that's it.

22 E X A M I N A T I O N

23 BY MS. COLLINS:

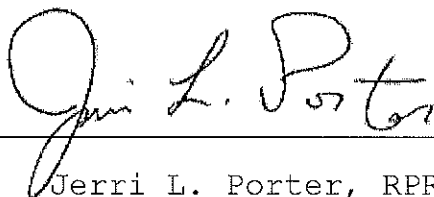
24 Q You were asked a question about -- and I
25 think it was characterized as a tap or a slap when

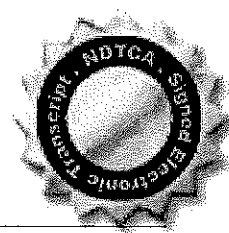
REPORTER'S CERTIFICATE

I, Jerri L. Porter, RPR, CRR, Notary Public and Court Reporter, do hereby certify that I recorded to the best of my skill and ability by machine shorthand all the proceedings in the foregoing transcript, and that said transcript is a true, accurate, and complete transcript to the best of my ability.

I further certify that I am not an attorney or counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

SIGNED this 21st day of November, 2017.





Jerri L. Porter, RPR, CRR

My Notary commission expires: 2/19/2018

Tennessee LCR No. 335

Expires: 6/30/2018